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106TH CONGRESS
2^D SESSION

H. R. 3615

IN THE SENATE OF THE UNITED STATES

MAY 2, 2000

Received; read twice and placed on the calendar

AN ACT

To amend the Rural Electrification Act of 1936 to ensure improved access to the signals of local television stations by multichannel video providers to all households which desire such service in unserved and underserved rural areas by December 31, 2006.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Rural Local Broadcast Signal Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
 7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose.
- Sec. 3. Rural Television Loan Guarantee Board.
- Sec. 4. Approval of loan guarantees.
- Sec. 5. Administration of loan guarantees.
- Sec. 6. Prohibition on use of funds for spectrum auctions.
- Sec. 7. Prohibition on use of funds by incumbent cable operators.
- Sec. 8. Annual audit.
- Sec. 9. Exemption from must carry requirements.
- Sec. 10. Additional availability of broadcast signals in rural areas.
- Sec. 11. Improved cellular service in rural areas.
- Sec. 12. Technical amendment.
- Sec. 13. Definitions.
- Sec. 14. Authorizations of appropriations.
- Sec. 15. Sunset.

8 **SEC. 2. PURPOSE.**

9 The purpose of this Act is to facilitate access, on a
 10 technologically neutral basis and by December 31, 2006,
 11 to signals of local television stations for households located
 12 in unserved areas and underserved areas.

13 **SEC. 3. RURAL TELEVISION LOAN GUARANTEE BOARD.**

14 (a) ESTABLISHMENT.—There is established the
 15 Rural Television Loan Guarantee Board (in this Act re-
 16 ferred to as the “Board”).

17 (b) MEMBERS.—

1 (1) IN GENERAL.—Subject to paragraph (2),
2 the Board shall consist of the following members:

3 (A) The Secretary of the Treasury, or the
4 designee of the Secretary.

5 (B) The Secretary of Agriculture, or the
6 designee of the Secretary.

7 (C) The Secretary of Commerce, or the
8 designee of the Secretary.

9 (2) REQUIREMENT AS TO DESIGNEES.—An in-
10 dividual may not be designated a member of the
11 Board under paragraph (1) unless the individual is
12 an officer of the United States pursuant to an ap-
13 pointment by the President, by and with the advice
14 and consent of the Senate.

15 (c) FUNCTIONS OF THE BOARD.—

16 (1) IN GENERAL.—The Board shall determine
17 whether or not to approve loan guarantees under
18 this Act. The Board shall make such determinations
19 consistent with the purpose of this Act and in ac-
20 cordance with this subsection and section 4 of this
21 Act.

22 (2) CONSULTATION AUTHORIZED.—

23 (A) IN GENERAL.—In carrying out its
24 functions under this Act, the Board shall con-
25 sult with such departments and agencies of the

1 Federal Government as the Board considers ap-
2 propriate, including the Department of Com-
3 merce, the Department of Agriculture, the De-
4 partment of the Treasury, the Department of
5 Justice, the Department of the Interior, the
6 Board of Governors of the Federal Reserve Sys-
7 tem, the Federal Communications Commission,
8 the Federal Trade Commission, and the Na-
9 tional Aeronautics and Space Administration.

10 (B) RESPONSE.—A department or agency
11 consulted by the Board under subparagraph (A)
12 shall provide the Board such expertise and as-
13 sistance as the Board requires to carry out its
14 functions under this Act.

15 (3) APPROVAL BY MAJORITY VOTE.—The deter-
16 mination of the Board to approve a loan guarantee
17 under this Act shall be by a vote of a majority of
18 the Board.

19 **SEC. 4. APPROVAL OF LOAN GUARANTEES.**

20 (a) AUTHORITY TO APPROVE LOAN GUARANTEES.—
21 Subject to the provisions of this section and consistent
22 with the purpose of this Act, the Board may approve loan
23 guarantees under this Act.

24 (b) REGULATIONS.—

1 (1) REQUIREMENTS.—The Administrator (as
2 defined in section 5 of this Act), under the direction
3 of and for approval by the Board, shall prescribe
4 regulations to implement the provisions of this Act
5 and shall do so not later than 120 days after funds
6 authorized to be appropriated under section 15 of
7 this Act have been appropriated in a bill signed into
8 law.

9 (2) ELEMENTS.—The regulations prescribed
10 under paragraph (1) shall—

11 (A) set forth the form of any application to
12 be submitted to the Board under this Act;

13 (B) set forth time periods for the review
14 and consideration by the Board of applications
15 to be submitted to the Board under this Act,
16 and for any other action to be taken by the
17 Board with respect to such applications;

18 (C) provide appropriate safeguards against
19 the evasion of the provisions of this Act;

20 (D) set forth the circumstances in which
21 an applicant, together with any affiliate of an
22 applicant, shall be treated as an applicant for
23 a loan guarantee under this Act;

24 (E) include requirements that appropriate
25 parties submit to the Board any documents and

1 assurances that are required for the administra-
2 tion of the provisions of this Act; and

3 (F) include such other provisions con-
4 sistent with the purpose of this Act as the
5 Board considers appropriate.

6 (3) CONSTRUCTION.—(A) Nothing in this Act
7 shall be construed to prohibit the Board from requir-
8 ing, to the extent and under circumstances consid-
9 ered appropriate by the Board, that affiliates of an
10 applicant be subject to certain obligations of the ap-
11 plicant as a condition to the approval or mainte-
12 nance of a loan guarantee under this Act.

13 (B) If any provision of this Act or the applica-
14 tion of such provision to any person or entity or cir-
15 cumstance is held to be invalid by a court of com-
16 petent jurisdiction, the remainder of this Act, or the
17 application of such provision to such person or entity
18 or circumstance other than those as to which it is
19 held invalid, shall not be affected thereby.

20 (c) AUTHORITY LIMITED BY APPROPRIATIONS
21 ACTS.—The Board may approve loan guarantees under
22 this Act only to the extent provided for in advance in ap-
23 propriations Acts.

24 (d) REQUIREMENTS AND CRITERIA APPLICABLE TO
25 APPROVAL.—

1 (1) IN GENERAL.—The Board shall utilize the
2 underwriting criteria developed under subsection (g),
3 and any relevant information provided by the de-
4 partments and agencies with which the Board
5 consults under section 3, to determine which loans
6 may be eligible for a loan guarantee under this Act.

7 (2) PREREQUISITES.—In addition to meeting
8 the underwriting criteria under paragraph (1), a
9 loan may not be guaranteed under this Act unless—

10 (A) the loan is made to finance the acqui-
11 sition, improvement, enhancement, construction,
12 deployment, launch, or rehabilitation of the
13 means by which local television broadcast sig-
14 nals will be delivered principally to an unserved
15 area or an underserved area (or both);

16 (B) the proceeds of the loan will not be
17 used for operating, advertising, or promotion
18 expenses;

19 (C) the proposed project, as determined by
20 the National Telecommunications and Informa-
21 tion Administration, is not likely to have a sub-
22 stantial adverse impact on competition that out-
23 weighs the benefits of improving access to the
24 signals of a local television station in an

1 unserved area or an underserved area (or both),
2 and is commercially viable;

3 (D)(i) the loan (including Other Debt, as
4 defined in subsection (f)(2)(B))—

5 (I) is provided by any entity engaged
6 in the business of commercial lending—

7 (aa) if the loan is made in ac-
8 cordance with loan-to-one-borrower
9 and affiliate transaction restrictions to
10 which the entity is subject under ap-
11 plicable law; or

12 (bb) if item (aa) does not apply,
13 the loan is made only to a borrower
14 that is not an affiliate of the entity
15 and only if the amount of the loan
16 and all outstanding loans by that enti-
17 ty to that borrower and any of its af-
18 filiates does not exceed 10 percent of
19 the net equity of the entity; or

20 (II) is provided by a nonprofit cor-
21 poration, including the National Rural
22 Utilities Cooperative Finance Corporation,
23 engaged primarily in commercial lending, if
24 the Board determines that such nonprofit
25 corporation has one or more issues of out-

1 standing long-term debt that is rated with-
2 in the highest 3 rating categories of a na-
3 tionally recognized statistical rating orga-
4 nization, and, if the Board determines that
5 the making of the loan by such nonprofit
6 corporation will cause a decline in the debt
7 rating mentioned above, the Board at its
8 discretion may disapprove the loan guar-
9 antee on this basis;

10 (ii)(I) no loan (including Other Debt as de-
11 fined in subsection (f)(2)(B)) may be made for
12 purposes of this Act by a governmental entity
13 or affiliate thereof, or by the Federal Agricul-
14 tural Mortgage Corporation, or any institution
15 supervised by the Office of Federal Housing
16 Enterprise Oversight, the Federal Housing Fi-
17 nance Board, or any affiliate of such entities;

18 (II) any loan (including Other Debt as de-
19 fined in subsection (f)(2)(B)) must have terms,
20 in the judgment of the Board, that are con-
21 sistent in material respects with the terms of
22 similar obligations in the private capital mar-
23 ket;

24 (III) for purposes of clause (i)(I)(bb), the
25 term “net equity” means the value of the total

1 assets of the entity, less the total liabilities of
2 the entity, as recorded under generally accepted
3 accounting principles for the fiscal quarter
4 ended immediately prior to the date on which
5 the subject loan is approved; and

6 (E) repayment of the loan is required to be
7 made within a term of the lesser of—

8 (i) 25 years from the date of the exe-
9 cution of the loan; or

10 (ii) the economically useful life, as de-
11 termined by the Board or in consultation
12 with persons or entities deemed appro-
13 priate by the Board, of the primary assets
14 to be used in the delivery of the signals
15 concerned; and

16 (F) the loan meets any additional criteria
17 developed under subsection (g).

18 (3) PROTECTION OF UNITED STATES FINAN-
19 CIAL INTERESTS.—The Board may not approve the
20 guarantee of a loan under this Act unless—

21 (A) the Board has been given documenta-
22 tion, assurances, and access to information,
23 persons, and entities necessary, as determined
24 by the Board, to address issues relevant to the

1 review of the loan by the Board for purposes of
2 this Act; and

3 (B) the Board makes a determination in
4 writing that—

5 (i) to the best of its knowledge upon
6 due inquiry, the assets, facilities, or equip-
7 ment covered by the loan will be utilized
8 economically and efficiently;

9 (ii) the terms, conditions, security,
10 and schedule and amount of repayments of
11 principal and the payment of interest with
12 respect to the loan protect the financial in-
13 terests of the United States and are rea-
14 sonable;

15 (iii) to the extent possible, the value
16 of collateral provided by an applicant is at
17 least equal to the unpaid balance of the
18 loan amount covered by the loan guarantee
19 (the “Amount” for purposes of this
20 clause); and if the value of collateral pro-
21 vided by an applicant is less than the
22 Amount, the additional required collateral
23 is provided by any affiliate of the appli-
24 cant; and if the combined value of collat-
25 eral provided by an applicant and any affil-

1 iate is not at least equal to the Amount,
2 the collateral from such affiliate represents
3 all of such affiliate's assets;

4 (iv) all necessary and required regu-
5 latory and other approvals, spectrum
6 rights, and delivery permissions have been
7 received for the loan, the project under the
8 loan, and the Other Debt, if any, under
9 subsection (f)(2)(B);

10 (v) the loan would not be available on
11 reasonable terms and conditions without a
12 loan guarantee under this Act; and

13 (vi) repayment of the loan can reason-
14 ably be expected.

15 (e) CONSIDERATIONS.—

16 (1) TYPE OF MARKET.—

17 (A) PRIORITY CONSIDERATIONS.—To the
18 maximum extent practicable, the Board shall
19 give priority in the approval of loan guarantees
20 under this Act in the following order: First, to
21 projects that will serve the greatest number of
22 households in unserved areas and the number
23 of States (including noncontiguous States); and
24 second, to projects that will serve the greatest
25 number of households in underserved areas. In

1 each instance, the Board shall consider the
2 project's estimated cost per household to be
3 served.

4 (B) PROHIBITION.—The Board may not
5 approve a loan guarantee under this Act for a
6 project that is designed primarily to serve one
7 or more of the 40 most populated designated
8 market areas (as that term is defined in section
9 122(j) of title 17, United States Code).

10 (2) OTHER CONSIDERATIONS.—The Board shall
11 consider other factors, which shall include projects
12 that would—

13 (A) offer a separate tier of local broadcast
14 signals;

15 (B) provide lower projected costs to con-
16 sumers of such separate tier; and

17 (C) enable the delivery of local broadcast
18 signals consistent with the purpose of this Act
19 by a means reasonably compatible with existing
20 systems or devices predominantly in use.

21 (f) GUARANTEE LIMITS.—

22 (1) LIMITATION ON AGGREGATE VALUE OF
23 LOANS.—The aggregate value of all loans for which
24 loan guarantees are issued under this Act (including
25 the unguaranteed portion of loans issued under

1 paragraph (2)(A)) and Other Debt under paragraph
2 (2)(B) may not exceed \$1,250,000,000.

3 (2) GUARANTEE LEVEL.—A loan guarantee
4 issued under this Act—

5 (A) may not exceed an amount equal to 80
6 percent of a loan meeting in its entirety the re-
7 quirements of subsection (d)(2)(A). If only a
8 portion of a loan meets the requirements of
9 that subsection, the Board shall determine that
10 percentage of the loan meeting such require-
11 ments (the “applicable portion”) and may issue
12 a loan guarantee in an amount not exceeding
13 80 percent of the applicable portion; or

14 (B) may, as to a loan meeting in its en-
15 tirety the requirements of subsection (d)(2)(A),
16 cover the amount of such loan only if that loan
17 is for an amount not exceeding 80 percent of
18 the total debt financing for the project, and
19 other debt financing (also meeting in its en-
20 tirety the requirements of subsection (d)(2)(A))
21 from the same source for a total amount not
22 less than 20 percent of the total debt financing
23 for the project (“Other Debt”) has been ap-
24 proved.

1 (g) UNDERWRITING CRITERIA.—Within the period
2 provided for under subsection (b)(1), the Board shall, in
3 consultation with the Director of the Office of Manage-
4 ment and Budget and an independent public accounting
5 firm, develop underwriting criteria relating to the guar-
6 antee of loans that are consistent with the purpose of this
7 Act, including appropriate collateral and cash flow levels
8 for loans guaranteed under this Act, and such other mat-
9 ters as the Board considers appropriate.

10 (h) CREDIT RISK PREMIUMS.—

11 (1) ESTABLISHMENT AND ACCEPTANCE.—The
12 Board may establish and approve the acceptance of
13 credit risk premiums with respect to a loan guar-
14 antee under this Act in order to cover the cost, as
15 determined under section 504(b)(1) of the Federal
16 Credit Reform Act of 1990, of the loan guarantee.
17 To the extent that appropriations of budget author-
18 ity are insufficient to cover the cost, as so deter-
19 mined, of a loan guarantee under this Act, credit
20 risk premiums shall be accepted from a non-Federal
21 source under this subsection on behalf of the appli-
22 cant for the loan guarantee.

23 (2) CREDIT RISK PREMIUM AMOUNT.—

24 (A) IN GENERAL.—The Board shall deter-
25 mine the amount of any credit risk premium to

1 be accepted with respect to a loan guarantee
2 under this Act on the basis of—

3 (i) the financial and economic cir-
4 cumstances of the applicant for the loan
5 guarantee, including the amount of collat-
6 eral offered;

7 (ii) the proposed schedule of loan dis-
8 bursements;

9 (iii) the business plans of the appli-
10 cant for providing service;

11 (iv) any financial commitment from a
12 broadcast signal provider; and

13 (v) the concurrence of the Director of
14 the Office of Management and Budget as
15 to the amount of the credit risk premium.

16 (B) PROPORTIONALITY.—To the extent
17 that appropriations of budget authority are suf-
18 ficient to cover the cost, as determined under
19 section 504(b)(1) of the Federal Credit Reform
20 Act of 1990, of loan guarantees under this Act,
21 the credit risk premium with respect to each
22 loan guarantee shall be reduced proportionately.

23 (C) PAYMENT OF PREMIUMS.—Credit risk
24 premiums under this subsection shall be paid to
25 an account (the “Escrow Account”) established

1 in the Treasury which shall accrue interest and
2 such interest shall be retained by the account,
3 subject to subparagraph (D).

4 (D) DEDUCTIONS FROM ESCROW AC-
5 COUNT.—If a default occurs with respect to any
6 loan guaranteed under this Act and the default
7 is not cured in accordance with the terms of the
8 underlying loan or loan guarantee agreement,
9 the Administrator, in accordance with sub-
10 sections (h) and (i) of section 5 of this Act,
11 shall liquidate, or shall cause to be liquidated,
12 all assets collateralizing such loan as to which
13 it has a lien or security interest. Any shortfall
14 between the proceeds of the liquidation net of
15 costs and expenses relating to the liquidation,
16 and the guarantee amount paid pursuant to
17 this Act shall be deducted from funds in the
18 Escrow Account and credited to the Adminis-
19 trator for payment of such shortfall. At such
20 time as determined under subsection (d)(2)(E)
21 when all loans guaranteed under this Act have
22 been repaid or otherwise satisfied in accordance
23 with this Act and the regulations promulgated
24 hereunder, remaining funds in the Escrow Ac-
25 count, if any, shall be refunded, on a pro rata

1 basis, to applicants whose loans guaranteed
2 under this Act were not in default, or where
3 any default was cured in accordance with the
4 terms of the underlying loan or loan guarantee
5 agreement.

6 (i) JUDICIAL REVIEW.—The decision of the Board to
7 approve or disapprove the making of a loan guarantee
8 under this Act shall not be subject to judicial review.

9 **SEC. 5. ADMINISTRATION OF LOAN GUARANTEES.**

10 (a) IN GENERAL.—The Administrator of the Rural
11 Utilities Service (in this Act referred to as the “Adminis-
12 trator”) shall issue and otherwise administer loan guaran-
13 tees that have been approved by the Board in accordance
14 with sections 3 and 4 of this Act.

15 (b) SECURITY FOR PROTECTION OF UNITED STATES
16 FINANCIAL INTERESTS.—

17 (1) TERMS AND CONDITIONS.—An applicant
18 shall agree to such terms and conditions as are sat-
19 isfactory, in the judgment of the Board, to ensure
20 that, as long as any principal or interest is due and
21 payable on a loan guaranteed under this Act, the
22 applicant—

23 (A) shall maintain assets, equipment, fa-
24 cilities, and operations on a continuing basis;

1 (B) shall not make any discretionary divi-
2 dend payments that impair its ability to repay
3 obligations guaranteed under this Act;

4 (C) shall remain sufficiently capitalized;
5 and

6 (D) shall submit to, and cooperate fully
7 with, any audit of the applicant under section
8 8(a)(2) of this Act.

9 (2) COLLATERAL.—

10 (A) EXISTENCE OF ADEQUATE COLLAT-
11 ERAL.—An applicant shall provide the Board
12 such documentation as is necessary, in the
13 judgment of the Board, to provide satisfactory
14 evidence that appropriate and adequate collat-
15 eral secures a loan guaranteed under this Act.

16 (B) FORM OF COLLATERAL.—Collateral re-
17 quired by subparagraph (A) shall consist solely
18 of assets of the applicant, any affiliate of the
19 applicant, or both (whichever the Board con-
20 sidered appropriate), including primary assets to
21 be used in the delivery of signals for which the
22 loan is guaranteed.

23 (C) REVIEW OF VALUATION.—The value of
24 collateral securing a loan guaranteed under this
25 Act may be reviewed by the Board, and may be

1 adjusted downward by the Board if the Board
2 reasonably believes such adjustment is appro-
3 priate.

4 (3) LIEN ON INTERESTS IN ASSETS.—Upon the
5 Board’s approval of a loan guarantee under this Act,
6 the Administrator shall have liens on assets securing
7 the loan, which shall be superior to all other liens on
8 such assets, and the value of the assets (based on
9 a determination satisfactory to the Board) subject to
10 the liens shall be at least equal to the unpaid bal-
11 ance of the loan amount covered by the loan guar-
12 antee, or that value approved by the Board under
13 section 4(d)(3)(B)(iii) of this Act.

14 (4) PERFECTED SECURITY INTEREST.—With
15 respect to a loan guaranteed under this Act, the Ad-
16 ministrator and the lender shall have a perfected se-
17 curity interest in assets securing the loan that are
18 fully sufficient to protect the financial interests of
19 the United States and the lender.

20 (5) INSURANCE.—In accordance with practices
21 in the private capital market, as determined by the
22 Board, the applicant for a loan guarantee under this
23 Act shall obtain, at its expense, insurance sufficient
24 to protect the financial interests of the United
25 States, as determined by the Board.

1 (c) ASSIGNMENT OF LOAN GUARANTEES.—The hold-
2 er of a loan guarantee under this Act may assign the loan
3 guaranteed under this Act in whole or in part, subject to
4 such requirements as the Board may prescribe.

5 (d) MODIFICATION.—The Board may approve the
6 modification of any term or condition of a loan guarantee
7 or a loan guaranteed under this Act, including the rate
8 of interest, time of payment of principal or interest, or
9 security requirements only if—

10 (1) the modification is consistent with the fi-
11 nancial interests of the United States;

12 (2) consent has been obtained from the parties
13 to the loan agreement;

14 (3) the modification is consistent with the un-
15 derwriting criteria developed under section 4(g) of
16 this Act;

17 (4) the modification does not adversely affect
18 the interest of the Federal Government in the assets
19 or collateral of the applicant;

20 (5) the modification does not adversely affect
21 the ability of the applicant to repay the loan; and

22 (6) the National Telecommunications and Infor-
23 mation Administration has been consulted by the
24 Board regarding the modification.

25 (e) PERFORMANCE SCHEDULES.—

1 (1) PERFORMANCE SCHEDULES.—An applicant
2 for a loan guarantee under this Act for a project
3 covered by section 4(e)(1) of this Act shall enter into
4 stipulated performance schedules with the Adminis-
5 trator with respect to the signals to be provided
6 through the project.

7 (2) PENALTY.—The Administrator may assess
8 against and collect from an applicant described in
9 paragraph (1) a penalty not to exceed three times
10 the interest due on the guaranteed loan of the appli-
11 cant under this Act if the applicant fails to meet its
12 stipulated performance schedule under that para-
13 graph.

14 (f) COMPLIANCE.—The Administrator, in cooperation
15 with the Board and as the regulations of the Board may
16 provide, shall enforce compliance by an applicant, and any
17 other party to a loan guarantee for whose benefit assist-
18 ance under this Act is intended, with the provisions of this
19 Act, any regulations under this Act, and the terms and
20 conditions of the loan guarantee, including through the
21 submittal of such reports and documents as the Board
22 may require in regulations prescribed by the Board and
23 through regular periodic inspections and audits.

24 (g) COMMERCIAL VALIDITY.—A loan guarantee
25 under this Act shall be incontestable—

1 (1) in the hands of an applicant on whose be-
2 half the loan guarantee is made, unless the applicant
3 engaged in fraud or misrepresentation in securing
4 the loan guarantee; and

5 (2) as to any person or entity (or their respec-
6 tive successor in interest) who makes or contracts to
7 make a loan to the applicant for the loan guarantee
8 in reliance thereon, unless such person or entity (or
9 respective successor in interest) engaged in fraud or
10 misrepresentation in making or contracting to make
11 such loan.

12 (h) DEFAULTS.—The Board shall prescribe regula-
13 tions governing defaults on loans guaranteed under this
14 Act, including the administration of the payment of guar-
15 anteed amounts upon default.

16 (i) RECOVERY OF PAYMENTS.—

17 (1) IN GENERAL.—The Administrator shall be
18 entitled to recover from an applicant for a loan
19 guarantee under this Act the amount of any pay-
20 ment made to the holder of the guarantee with re-
21 spect to the loan.

22 (2) SUBROGATION.—Upon making a payment
23 described in paragraph (1), the Administrator shall
24 be subrogated to all rights of the party to whom the

1 payment is made with respect to the guarantee
2 which was the basis for the payment.

3 (3) DISPOSITION OF PROPERTY.—

4 (A) SALE OR DISPOSAL.—The Adminis-
5 trator shall, in an orderly and efficient manner,
6 sell or otherwise dispose of any property or
7 other interests obtained under this Act in a
8 manner that maximizes taxpayer return and is
9 consistent with the financial interests of the
10 United States.

11 (B) MAINTENANCE.—The Administrator
12 shall maintain in a cost-effective and reasonable
13 manner any property or other interests pending
14 sale or disposal of such property or other inter-
15 ests under subparagraph (A).

16 (j) ACTION AGAINST OBLIGOR.—

17 (1) AUTHORITY TO BRING CIVIL ACTION.—The
18 Administrator may bring a civil action in an appro-
19 priate district court of the United States in the
20 name of the United States or of the holder of the
21 obligation in the event of a default on a loan guar-
22 anteed under this Act. The holder of a loan guar-
23 antee shall make available to the Administrator all
24 records and evidence necessary to prosecute the civil
25 action.

1 (2) FULLY SATISFYING OBLIGATIONS OWED
2 THE UNITED STATES.—The Administrator may ac-
3 cept property in satisfaction of any sums owed the
4 United States as a result of a default on a loan
5 guaranteed under this Act, but only to the extent
6 that any cash accepted by the Administrator is not
7 sufficient to satisfy fully the sums owed as a result
8 of the default.

9 (k) BREACH OF CONDITIONS.—The Administrator
10 shall commence a civil action in a court of appropriate
11 jurisdiction to enjoin any activity which the Board finds
12 is in violation of this Act, the regulations under this Act,
13 or any conditions which were duly agreed to, and to secure
14 any other appropriate relief, including relief against any
15 affiliate of the applicant.

16 (l) ATTACHMENT.—No attachment or execution may
17 be issued against the Administrator or any property in the
18 control of the Administrator pursuant to this Act before
19 the entry of a final judgment (as to which all rights of
20 appeal have expired) by a Federal, State, or other court
21 of competent jurisdiction against the Administrator in a
22 proceeding for such action.

23 (m) FEES.—

24 (1) APPLICATION FEE.—The Board shall
25 charge and collect from an applicant for a loan guar-

1 antee under this Act a fee to cover the cost of the
2 Board in making necessary determinations and find-
3 ings with respect to the loan guarantee application
4 under this Act. The amount of the fee shall be rea-
5 sonable.

6 (2) LOAN GUARANTEE ORIGINATION FEE.—The
7 Board shall charge, and the Administrator may col-
8 lect, a loan guarantee origination fee with respect to
9 the issuance of a loan guarantee under this Act.

10 (3) USE OF FEES COLLECTED.—Any fee col-
11 lected under this subsection shall be used to offset
12 administrative costs under this Act, including costs
13 of the Board and of the Administrator.

14 (n) REQUIREMENTS RELATING TO AFFILIATES.—

15 (1) INDEMNIFICATION.—The United States
16 shall be indemnified by any affiliate (acceptable to
17 the Board) of an applicant for a loan guarantee
18 under this Act for any losses that the United States
19 incurs as a result of—

20 (A) a judgment against the applicant or
21 any of its affiliates;

22 (B) any breach by the applicant or any of
23 its affiliates of their obligations under the loan
24 guarantee agreement;

1 (C) any violation of the provisions of this
2 Act, and the regulations prescribed under this
3 Act, by the applicant or any of its affiliates;

4 (D) any penalties incurred by the applicant
5 or any of its affiliates for any reason, including
6 violation of a stipulated performance schedule
7 under subsection (e); and

8 (E) any other circumstances that the
9 Board considers appropriate.

10 (2) LIMITATION ON TRANSFER OF LOAN PRO-
11 CEEDS.—An applicant for a loan guarantee under
12 this Act may not transfer any part of the proceeds
13 of the loan to an affiliate.

14 (c) EFFECT OF BANKRUPTCY.—(1) Notwithstanding
15 any other provision of law, whenever any person or entity
16 is indebted to the United States as a result of any loan
17 guarantee issued under this Act and such person or entity
18 is insolvent or is a debtor in a case under title 11, United
19 States Code, the debts due to the United States shall be
20 satisfied first.

21 (2) A discharge in bankruptcy under title 11, United
22 States Code, shall not release a person or entity from an
23 obligation to the United States in connection with a loan
24 guarantee under this Act.

1 **SEC. 6. PROHIBITION ON USE OF FUNDS FOR SPECTRUM**
2 **AUCTIONS.**

3 Notwithstanding any other provision of this Act, no
4 loan guarantee under this Act may be granted or used to
5 provide funds for the acquisition of licenses for the use
6 of spectrum in any competitive bidding under section
7 309(j) of the Communications Act of 1934 (47 U.S.C.
8 309(j)).

9 **SEC. 7. PROHIBITION ON USE OF FUNDS BY INCUMBENT**
10 **CABLE OPERATORS.**

11 Notwithstanding any other provision of this Act, no
12 loan guarantee under this Act may be granted or used to
13 provide funds for—

14 (1) the extension of any cable system to any
15 area or areas for which the cable operator of such
16 cable system has a cable franchise, if such franchise
17 obligates the operator to extend such system to such
18 area or areas; or

19 (2) the upgrading or enhancement of the serv-
20 ices provided over any cable system, unless such up-
21 grading or enhancement is principally undertaken to
22 extend services to areas outside of the previously ex-
23 isting franchise area of the cable operator.

1 **SEC. 8. ANNUAL AUDIT.**

2 (a) REQUIREMENT.—The Comptroller General of the
3 United States shall conduct on an annual basis an audit
4 of—

5 (1) the administration of the provisions of this
6 Act; and

7 (2) the financial position of each applicant who
8 receives a loan guarantee under this Act, including
9 the nature, amount, and purpose of investments
10 made by the applicant.

11 (b) REPORT.—The Comptroller General shall submit
12 to the Congress a report on each audit conducted under
13 subsection (a).

14 **SEC. 9. EXEMPTION FROM MUST CARRY REQUIREMENTS.**

15 A facility of a satellite carrier, cable system, or other
16 multichannel video programming distributor that is fi-
17 nanced with a loan guaranteed under this Act and that
18 delivers local broadcast signals in a television market pur-
19 suant to the provisions of section 338, 614, or 615 of the
20 Communications Act of 1934 (47 U.S.C. 338, 534, or
21 535) shall not be required to carry in such market a great-
22 er number of local broadcast signals than the number of
23 such signals that is carried by the cable system serving
24 the largest number of subscribers in such market.

1 **SEC. 10. ADDITIONAL AVAILABILITY OF BROADCAST SIG-**
2 **NALS IN RURAL AREAS.**

3 (a) OPENING OF FILING FOR ADDITIONAL TRANS-
4 LATOR AND LOW-POWER STATIONS.—The Federal Com-
5 munications Commission shall, in accordance with its reg-
6 ulations, open a filing period window for the acceptance
7 of applications for television translator stations and low-
8 power television stations in rural areas.

9 (b) DEADLINES FOR NOTICE.—The Commission
10 shall announce the filing period window no less than 90
11 days prior to the commencement of the window.

12 **SEC. 11. IMPROVED CELLULAR SERVICE IN RURAL AREAS.**

13 (a) REINSTATEMENT OF APPLICANTS AS TENTATIVE
14 SELECTEES.—

15 (1) IN GENERAL.—Notwithstanding the order
16 of the Federal Communications Commission in the
17 proceeding described in paragraph (3), the Commis-
18 sion shall—

19 (A) reinstate each applicant as a tentative
20 selectee under the covered rural service area li-
21 censing proceeding; and

22 (B) permit each applicant to amend its ap-
23 plication, to the extent necessary to update fac-
24 tual information and to comply with the rules
25 of the Commission, at any time before the Com-

1 mission's final licensing action in the covered
2 rural service area licensing proceeding.

3 (2) EXEMPTION FROM PETITIONS TO DENY.—

4 For purposes of the amended applications filed pur-
5 suant to paragraph (1)(B), the provisions of section
6 309(d)(1) of the Communications Act of 1934 (47
7 U.S.C. 309(d)(1)) shall not apply.

8 (3) PROCEEDING.—The proceeding described in
9 this paragraph is the proceeding of the Commission
10 In re Applications of Cellwave Telephone Services
11 L.P., Futurewave General Partners L.P., and Great
12 Western Cellular Partners, 7 FCC Red No. 19
13 (1992).

14 (b) CONTINUATION OF LICENSE PROCEEDING; FEE
15 ASSESSMENT.—

16 (1) AWARD OF LICENSES.—The Commission
17 shall award licenses under the covered rural service
18 area licensing proceeding within 90 days after the
19 date of the enactment of this Act.

20 (2) SERVICE REQUIREMENTS.—The Commis-
21 sion shall provide that, as a condition of an appli-
22 cant receiving a license pursuant to the covered
23 rural service area licensing proceeding, the applicant
24 shall provide cellular radiotelephone service to sub-
25 scribers in accordance with sections 22.946 and

1 22.947 of the Commission's rules (47 CFR 22.946,
2 22.947); except that the time period applicable
3 under section 22.947 of the Commission's rules (or
4 any successor rule) to the applicants identified in
5 subparagraphs (A) and (B) of subsection (d)(1)
6 shall be 3 years rather than 5 years and the waiver
7 authority of the Commission shall apply to such 3-
8 year period.

9 (3) CALCULATION OF LICENSE FEE.—

10 (A) FEE REQUIRED.—The Commission
11 shall establish a fee for each of the licenses
12 under the covered rural service area licensing
13 proceeding. In determining the amount of the
14 fee, the Commission shall consider—

15 (i) the average price paid per person
16 served in the Commission's Cellular
17 Unserved Auction (Auction No. 12); and

18 (ii) the settlement payments required
19 to be paid by the permittees pursuant to
20 the consent decree set forth in the Com-
21 mission's order, In re the Tellesis Partners
22 (7 FCC Red 3168 (1992)), multiplying
23 such payments by two.

24 (B) NOTICE OF FEE.—Within 30 days
25 after the date an applicant files the amended

1 application permitted by subsection (a)(1)(B),
2 the Commission shall notify each applicant of
3 the fee established for the license associated
4 with its application.

5 (4) PAYMENT FOR LICENSES.—No later than
6 18 months after the date that an applicant is grant-
7 ed a license, each applicant shall pay to the Commis-
8 sion the fee established pursuant to paragraph (3)
9 for the license granted to the applicant under para-
10 graph (1).

11 (5) AUCTION AUTHORITY.—If, after the amend-
12 ment of an application pursuant to subsection
13 (a)(1)(B), the Commission finds that the applicant
14 is ineligible for grant of a license to provide cellular
15 radiotelephone services for a rural service area or
16 the applicant does not meet the requirements under
17 paragraph (2) of this subsection, the Commission
18 shall grant the license for which the applicant is the
19 tentative selectee (pursuant to subsection (a)(1)(B)
20 by competitive bidding pursuant to section 309(j) of
21 the Communications Act of 1934 (47 U.S.C. 309(j)).

22 (c) PROHIBITION OF TRANSFER.—During the 5-year
23 period that begins on the date that an applicant is granted
24 any license pursuant to subsection (a), the Commission
25 may not authorize the transfer or assignment of that li-

1 cense under section 310 of the Communications Act of
2 1934 (47 U.S.C. 310). Nothing in this Act may be con-
3 strued to prohibit any applicant granted a license pursu-
4 ant to subsection (a) from contracting with other licensees
5 to improve cellular telephone service.

6 (d) DEFINITIONS.—For the purposes of this section,
7 the following definitions shall apply:

8 (1) APPLICANT.—The term “applicant”
9 means—

10 (A) Great Western Cellular Partners, a
11 California general partnership chosen by the
12 Commission as tentative selectee for RSA #492
13 on May 4, 1989;

14 (B) Monroe Telephone Services L.P., a
15 Delaware limited partnership chosen by the
16 Commission as tentative selectee for RSA #370
17 on August 24, 1989 (formerly Cellwave Tele-
18 phone Services L.P.); and

19 (C) FutureWave General Partners L.P., a
20 Delaware limited partnership chosen by the
21 Commission as tentative selectee for RSA #615
22 on May 25, 1990.

23 (2) COMMISSION.—The term “Commission”
24 means the Federal Communications Commission.

1 (3) COVERED RURAL SERVICE AREA LICENSING
 2 PROCEEDING.—The term “covered rural service area
 3 licensing proceeding” means the proceeding of the
 4 Commission for the grant of cellular radiotelephone
 5 licenses for rural service areas #492 (Minnesota
 6 11), #370 (Florida 11), and #615 (Pennsylvania
 7 4).

8 (4) TENTATIVE SELECTEE.—The term “ten-
 9 tative selectee” means a party that has been selected
 10 by the Commission under a licensing proceeding for
 11 grant of a license, but has not yet been granted the
 12 license because the Commission has not yet deter-
 13 mined whether the party is qualified under the Com-
 14 mission’s rules for grant of the license.

15 **SEC. 12. TECHNICAL AMENDMENT.**

16 Section 339(c) of the Communications Act of 1934
 17 (47 U.S.C. 339(c)) is amended by adding at the end the
 18 following new paragraph:

19 “(5) DEFINITION.—Notwithstanding subsection
 20 (d)(4), for purposes of paragraphs (2) and (4) of
 21 this subsection, the term ‘satellite carrier’ includes a
 22 distributor (as defined in section 119(d)(1) of title
 23 17, United States Code), but only if the satellite dis-
 24 tributor’s relationship with the subscriber includes

1 billing, collection, service activation, and service de-
2 activation.”.

3 **SEC. 13. DEFINITIONS.**

4 In this Act:

5 (1) **AFFILIATE.**—The term “affiliate”—

6 (A) means any person or entity that con-
7 trols, or is controlled by, or is under common
8 control with, another person or entity; and

9 (B) may include any individual who is a di-
10 rector or senior management officer of an affil-
11 iate, a shareholder controlling more than 25
12 percent of the voting securities of an affiliate,
13 or more than 25 percent of the ownership inter-
14 est in an affiliate not organized in stock form.

15 (2) **UNSERVED AREA.**—The term “unserved
16 area” means any area that—

17 (A) is outside the grade B contour (as de-
18 termined using standards employed by the Fed-
19 eral Communications Commission) of the local
20 television broadcast signals serving a particular
21 designated market area; and

22 (B) does not have access to local television
23 broadcast signals from any commercial, for-
24 profit multichannel video provider.

1 (3) UNDERSERVED AREA.—The term “under-
2 served area” means any area that—

3 (A) is outside the grade A contour (as de-
4 termined using standards employed by the Fed-
5 eral Communications Commission) of the local
6 television broadcast signals serving a particular
7 designated market area; and

8 (B) has access to local television broadcast
9 signals from not more than one commercial,
10 for-profit multichannel video provider.

11 (4) COMMON TERMS.—Except as provided in
12 paragraphs (1) through (4), any term used in this
13 Act that is defined in the Communications Act of
14 1934 (47 U.S.C. 151 et seq.) has the meaning given
15 that term in the Communications Act of 1934.

16 **SEC. 14. AUTHORIZATIONS OF APPROPRIATIONS.**

17 (a) COST OF LOAN GUARANTEES.—For the cost of
18 the loans guaranteed under this Act, including the cost
19 of modifying the loans, as defined in section 502 of the
20 Congressional Budget Act of 1974 (2 U.S.C. 661a), there
21 are authorized to be appropriated for fiscal years 2001
22 through 2006, such amounts as may be necessary.

23 (b) COST OF ADMINISTRATION.—There is hereby au-
24 thorized to be appropriated such sums as may be nec-

6 SEC. 15. SUNSET.

7 No loan guarantee may be approved under this Act
8 after December 31, 2006.

Passed the House of Representatives April 13, 2000.

Attest: **JEFF TRANDAH**,
Clerk.

By MARTHA C. MORRISON,
Deputy Clerk.

Calendar No. 525

106TH CONGRESS
2D SESSION

H. R. 3615

AN ACT

To amend the Rural Electrification Act of 1936 to ensure improved access to the signals of local television stations by multichannel video providers to all households which desire such service in unserved and underserved rural areas by December 31, 2006.

MAY 2, 2000

Received; read twice and placed on the calendar